

Resolution Number TC-1757

BE IT HEREBY RESOLVED, the Transportation Commission's Regular Meeting Minutes of July 23, 2009 are hereby approved as published in the official agenda.

**Transportation Commission of Colorado
Regular Meeting Minutes
July 23, 2009**

Chairman Bill Kaufman convened the meeting at 10:00 a.m. in the auditorium of the headquarters building in Denver Colorado.

PRESENT WERE: Bill Kaufman, Chairman, District 5
Kimbra L. Killin, Vice Chairwoman, District 11
Henry Sobanet, District 1
Jeanne Erickson, District 2
Gregory B. McKnight, District 3
Heather Barry, District 4
George Krawzoff, District 6
Doug Aden, District 7
Steve Parker, District 8
Les Gruen, District 9
Gilbert Ortiz, Sr., District 10
Stacey Stegman, Secretary/Public Relations Director

ALSO PRESENT: Executive Director Russ George
Peggy Catlin, Deputy Executive Director
Pam Hutton, Chief Engineer
Jennifer Finch, Transportation Development Director
Casey Tighe, Audit Division Director
Heather Copp, Chief Financial Officer
Rick Gabel, Staff Services Director
Herman Stockinger, Government Relations Director
Tony DeVito, Region 1 Transportation Director
Tim Harris, Region 2 Transportation Director
Weldon Allen, Region 3 Transportation Director
Richard Reynolds, Region 5 Transportation Director
Randy Jensen, Region 6 Transportation Director
Dianne Cavaliere, Commission Assistant
Harry Morrow, Chief Transportation Counsel
Karla Petty, Federal Highway Administration
Division Administrator

**Vince Rogalski, Statewide Transportation Advisory
Committee (STAC) Chairman**

**AND: Other staff members, organization representatives,
the public and the news media**

**Two audiotapes of the meeting were made and supporting documents are
filed in the Transportation Commission office.**

Audience Participation

**On behalf of the Silver Dollar Metropolitan District, Medill McC. Barnes
requested the inclusion of State Highway 119, North Clear Creek
Restoration project in Colorado's final submission list for the TIGER
Discretionary Grants.**

Individual Commissioner Comments

**Commissioner Barry thanked staff for their quick responses to
constituent and local government concerns and needs. She was also
pleased with local government's support of CDOT's maintenance of effort.**

**Commissioner Krawzoff announced his intent to join the firm Transit Plus
as a principal, effective July 27th. The firm will continue to do some
business with CDOT without his direct involvement.**

**Commissioner Aden attended Club 20 Transportation Committee meeting
and voiced his appreciation for staff presentations on the American
Recovery and Reinvestment Act (ARRA) projects, implementation of the
FASTER legislation and the implications of SB 228 on long term funding.**

**Commissioner McKnight commended the Federal Highway
Administration, the Equal Opportunity and Chief Engineer's staff and
Chief Transportation Counsel Harry Morrow for their work to amend the
Good Faith Effort standard.**

Executive Director's Report

**Executive Director George summarized his activities since the meeting in
June. He attended meetings with Embrace Colorado, the I-70 Mountain
Corridor Collaborative Effort, the Transportation and Environmental
Research Committee. He met with DOT Secretary Ray LaHood and
Deputy Secretary John Porcari following the groundbreaking for the ARRA
project on C 470. He also met with Harris Sherman, Department of**

Natural Resources and Susan Kirkpatrick of Department of Local Affairs to start conversations about how land use planning affects water and transportation decisions and the role of local government.

Executive Director George and Legislative Liaison Melissa Nelson accepted an invitation to the quarterly meeting of the Agriculture Council, who are industry representatives and rural county commissioners. He also took time to attend an event to honor RTD General Manager Cal Marsella.

He attended an Aeronautics Board meeting that was held at the Eagle County Airport and he took the opportunity to tour the facility and view the runway extension project. He also attended two formal employee partnership meetings. At this time, agreement between management team and the employee team have reached agreement on six or seven major issues areas. The first issue to be address is savings, efficiencies and accountability.

Executive Director George was proud to recognize that Federal Liaison and Chief Financial Officer Heather Copp have led the Congressional Call to Action to inform and educate Congress and staff on the Rescissions and the reauthorization of SAFETEA-LU.

Chief Engineer Report

Chief Hutton used a powerpoint presentation to provide a status report on ARRA accomplishments. She noted that as of June 30th, 19 projects are under construction and 576 people have direct jobs, with 26,706 hours reported and a payroll of \$661.7 thousand.

On the highway side, 92 projects have been identified between CDOT and local agencies; 66 projects have been obligated worth \$251 million; 49 projects have been advertised; 43 bids were opened and 33 contracts have been awarded with 8 pending contracts; 30 notices to proceed have been issued. One project has been completed. Regarding transit, \$10.3 million of CDOT's \$12.5 million allocation has been obligated to the Summit County Fleet Maintenance Facility and the remaining \$2.2 million will be used for the rolling stock needs of local transit agencies. Local transit authorities are submitting applications to FTA for the remaining \$108 million.

Accumulated bid savings total \$30 million. The USDOT and FHWA are advocating a strong emphasis on allocating the savings to economically distressed areas (EDAs) and geographic options are under review by the Regions and the planning partners. Currently 37 of 92 projects or 40

percent of the projects are located in EDAs worth \$95.6 million. The future focus is to reach 100 percent obligation of bid savings by March 2nd, the discretionary grants and construction.

Chief Hutton and Ms. Benavidez then recognized RTD Reynolds and his Region 5 staff for creating CDOT's Wildlife Detection System Project. The project competed at the regional and national level and ultimately the Western Association of State Highway and Transportation Officials chose the project in the category of Innovative Management of Small Projects. He informed the Commission that PE III Mike McVaugh created the project and brain child Traffic Section and PE II Chris Beller is monitoring the project. Commission Aden noted that a good-friend died when he collided with a deer. He felt the detection system was a terrific safety investment for the state of Colorado.

Deputy Executive Director Report

Deputy Executive Director Catlin participated in a strategic planning exercise for the future of congestion pricing at the invitation of FHWA's Division Headquarters Offices of Innovative Program Delivery and Office of Operation.

The Interstate 25 Express Lanes progress report for June was then distributed. Ms. Catlin stated that although HOV use of the toll lanes is slightly down from 2008, the toll paying customers increased. She attributed the increase to the license plate video toll payment option that has been in place since January. Regarding operations, Ms. Catlin stated that over a three-week period, a VMS message reverted to the old toll rate of \$3.25 while the correct toll of \$3.50 toll was being recorded. A reverse and report was done and 19,274 transactions were reversed on 6,166 accounts. The year-to-date revenues were in excess of \$2.4 million. A loan repayment of \$302 thousand was made to the Commission's contingency. About \$500 thousand that was identified in the capital plan did not get done and the money will be carried over to the Fiscal Year 2010 budget.

FHWA Division Administrator Report

FHWA Division Administrator Karla Petty relayed that with the appointments of Administrator Victor Mendez administrator, Deputy Administrator Greg Nadeau and Chief Counsel Karen Hedlund, FHWA is fully staffed at the leadership level.

She appreciated CDOT's understanding of the priority being given to EDAs and the effort to amend the Good Faith Effort standard. She also appreciated Public Relations Director Stacey Stegman for getting the ARRA activities and accomplishments to the media and the public. She noted that the Maintenance of Effort guidance continues to evolve and she would continue to work to ensure Colorado is in a position for FY 2011 redistribution funds.

Statewide Transportation Advisory Committee Report

STAC Chairman Vince Rogalski reported on the STAC meeting held on Friday July 17th. Discussion items were the Bicycle and Pedestrian Policy, federal legislative deliberations, ARRA activities, Congestion Mitigation Air Quality (CMAQ) funds, the Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grants and the Transportation Deficit Report.

Disadvantaged Business Enterprises Committee

DBE Committee Chairwoman Barry reported DBEs achieved 9 percent participation from October 2008 through May 2009. The Transit Unit staff recommended an annual transit DBE goal of 9 percent and the Committee recommends approval by the full Commission. And the Good Faith Effort Joint Committee brought forth a recommendation for a standard special provision for ARRA projects. Staff Services Director Rick Gabel recommended the special provision should be adopted for ARRA as well as all other projects through an expedited administrative process. The DBE Committee agreed and requested the Commission immediately adopt the ARRA standard special provision.

Transit and Intermodal Committee

Transit and Intermodal Committee Chairman Parker reported that the Federal Transit Administration decided to allow 10 percent of ARRA funds available to be used operating. The Committee members identified the desire to use up to \$1.3 million of the \$2.2 million designated for transit rolling stock for operating expense and asked that staff develop more details on how to accomplish the change in eligibility.

The Denver Union Station Project Authority (DUSPA) requested flexibility regarding how the SB97-001 funds are used in support of the DUS project. The issue is complicated and consideration by the full Commission is slated in July. Appointments to the Interim Transit and Rail Committee

will be made soon. Meetings will be coordinated with the monthly Commission meetings.

CDOT has submitted 2 pre-applications for Federal Rail Authority High Speed Rail (HSR) ARRA funds. The projects are for the next steps on the Interstate 25 and 70 Corridors and the State Rail Plan. CDOT is also participating with New Mexico and Texas on a third pre-application for HSR from Denver to El Paso. Several Metropolitan Planning Organizations are discussing coordination of a multi-state HSR to connect major cities in the west.

Consent Agenda

Chairman Kaufman postponed adoption of the Project Priority Programming Process until September to allow STAC consideration and comments. Commissioner Aden then moved for adoption of the consent agenda. Commissioner Sobanet seconded the motion and on a vote of the Commission, the following resolutions were unanimously adopted.

Resolution Number TC-1744 – Not Assigned

Resolution Number TC-1745

BE IT HEREBY RESOLVED, the Transportation Commission's Special and Regular Meeting Minutes of June 17 and 18, 2009 are hereby approved as published in the official agenda.

Resolution Number TC-1746

BE IT HEREBY RESOLVED, that the 2010 Master Calendar of the Transportation Commission is hereby approved as published in the official agenda.

Resolution Number TC-1747

WHEREAS, the Colorado Transportation Commission has statutory authority pursuant to 43-1-106, C.R.S. to approve, accept, and amend various planning documents resulting from Section 135 Title 23 of the USC, and 43-1-1101 through 1105 C.R.S.; and

WHEREAS, the Commission adopted the 2008 – 2013 Statewide Transportation Improvement Program (STIP) in March, 2008; and

WHEREAS, the STIP is occasionally amended due to significant changes in project scope or projects need to be programmed in or out of the first four years of the STIP, thereby requiring a policy amendment to the STIP; and

WHEREAS, the Section 450 Title 23 of the CFR requires a public process be implemented for review and comment on proposed policy amendments, as well as Transportation Commission approval of said amendments; and

WHEREAS, the public process for the policy amendments set before the Commission for the month of Amendment #15 was provided from June 17 through July 22, 2009 and no comments were received; and

WHEREAS, it is requested that the Transportation Commission approve the policy amendments to the STIP which are detailed in the attached table and direct staff to forward this approval to the Federal Highway Administration and the Federal Transit Administration for concurrence.

NOW, THEREFORE, BE IT RESOLVED, the attached STIP Policy Amendment package for Amendment #15 be adopted and forwarded to the Federal Highway Administration for concurrence.

BE IT FURTHER RESOLVED, after said concurrence is received from the Federal Highway Administration, staff from the CDOT Office of Financial Management and Budget will finalize the policy amendments in the STIP Database.

Colorado State Infrastructure Bank Transfer

Ms. Copp requested the Commission to approve a transfer of \$9 million from the aviation account of the COSIB to fund phase II of the Colorado Mountain Radar Project. And on a motion by McKnight second by Krawzoff and a vote of the Commission the following resolution was unanimously adopted.

Resolution Number TC-1748

WHEREAS, the Colorado State Infrastructure Bank (CO SIB) is a transportation investment fund consisting of a highway account, a transit account, an aviation account and a rail account; and

WHEREAS, the State Aviation Fund is a fund consisting of certain revenue reserved for aviation uses and purposes; and

WHEREAS, the General Assembly has passed Legislation (House Bill 09-1066) that allows for the transfer of moneys from the aviation account of the CO SIB in an amount not exceeding the amount previously transferred from the aviation fund (fund 160) back to fund 160; and

WHEREAS, in 2007, the Colorado Aeronautical Board (CAB) transferred \$10,000,000.00 from fund160 to the aviation account of the CO SIB; and

WHEREAS, the CAB has requested and approved the transfer of \$9,000,000.00 from the aviation account of the CO SIB back to fund 160 to fund phase II of the Colorado mountain radar project as evidenced by the CAB resolution attached hereto; and

WHEREAS, this is an aviation project and the Director of the Division of Aeronautics has technically approved the project; and

WHEREAS, the Colorado Department of Transportation's Chief Financial Officer (CFO) has reviewed and supports the request; and

WHEREAS, there is a sufficient amount available to make this transfer in the aviation account of the CO SIB.

NOW THEREFORE BE IT RESOLVED, the Transportation Commission authorizes, under the guidance and direction of the CFO, the transfer in the amount of \$9,000,000.00 from the aviation account of the CO SIB back to fund 160 to fund phase II of the Colorado mountain radar project.

Second Supplement to the Fiscal Year (FY) 2010 Budget

Chief Financial Officer Heather Copp reviewed the significant items in the supplement by investment category. Under Program Delivery, Ms. Copp requested that an interagency transfer of \$1,052,901 be made from the Commission's Contingency to the Governor's Office of Information Technology (OIT) for Information Technology statewide administration.

Commissioner Sobanet said at the time OIT bill was enacted, he had met with the bill sponsors, OIT officials and the Department of Administration. He received clear verbal assurances that OIT would submit a fair billing. Further, in line with the Commission's fiduciary duty, the funds would be used for construction, supervision and maintenance of state highways and that the state mandate would be respected. He was not willing to support a transfer, until we have assurances from CDOT's team can assure the Commission that the state

mandate is being followed and the spirit of the verbal assurances are being held.

Executive Director George stated CDOT's conversation is consistent with the state mandate. Oral assurance by OIT to follow the mandate has been documented through an exchange of emails. He fully expected the ultimate comprehensive Memorandum of Understanding (MOU) to be finalized within the next few months and he would not sign the MOU until the mandate is fully honored and the funds would not be disbursed on a cash basis until the MOU is finalized.

Commissioner McKnight agreed with the assessments and felt a clear message must be relayed to OIT that the Commission's fiduciary responsibility is not overridden by OIT's need for money. Ms. Copp responded the item was brought to the Commission's attention due to a need for the year-end accrual and staff would continue to relay the Commission's position.

Ms. Copp confirmed that \$47 thousand of FY 2009 Road Equipment funding was transferred from capital to operating to properly record the rental of equipment as an operating expense rather than a capital expense. Additionally, Ms. Copp requested a \$483 thousand transfer of Region 4 Bridge program funds for the reconstruction of two bridges located on US 34 in the Upper Big Thompson. The additional funding is required to award the contract to the second highest bidder on the project. The award of the project has been pending due to a Good Faith Estimate appeal process. She also requested \$351,759 transfer within the Equipment Pool-Infrastructure Account from capital funds to operating to properly record purchases.

The Snow and Ice Contingency Reserve Balance is \$10 million and with adoption of the supplement, the balance of the Commission's Contingency Reserve is \$67.2 million.

Commissioner Sobanet then moved for adoption of the supplement with the notation that the interagency transfer would not be disbursed to OIT on a cash basis until the Executive Director deems the MOU acceptable. The motion was seconded by Parker and on a vote of the Commission the following resolution was unanimously adopted.

Resolution Number TC-1749

BE IT RESOLVED, that the Second Supplement to the Fiscal Year 2010 Budget be approved by the Commission.

TIGER Discretionary Grants

Government Relations Director Herman Stockinger distributed a proposed resolution to adopt six project TIGER Discretionary Grant applications. Commissioner Krawzoff agreed with the selections made by CDOT and STAC, however he supported adding the US 6, US 40 & SH 119 project. He then moved for adoption of the resolution to include seven projects. Commissioner Erickson seconded the motion. Commissioner Killin liked the fact the project would solve environmental issues and major superfund issues. Chairman Kaufman then called for the question and the following resolution was adopted; Commissioner Aden voted no.

Resolution Number TC-1750

WHEREAS, on May 18, 2009, and on June 17, 2009 the U.S. Department of Transportation published notices in the Federal Register for funding availability for Supplemental Discretionary Grants for Capital Investments in Surface Transportation Infrastructure (also known as TIGER Discretionary Grants) under the American Recovery and Investment Act; and

WHEREAS, the TIGER Discretionary Grants must be submitted to the U.S. Secretary of Transportation by September 15, 2009; and

WHEREAS, the USDOT's consideration of TIGER Discretionary Grant applications will be based on Job Creation & Economic Stimulus and Long-Term Outcomes as primary selection criteria; and

WHEREAS, the Colorado Department of Transportation, working with its planning partners across the state, prepared a list of potential projects for CDOT to submit under the TIGER Discretionary Grants program; and

WHEREAS, the State Transportation Advisory Committee assisted in prioritizing the six grants statewide that CDOT would apply for; and

WHEREAS, Transportation Commission confirms its support for the projects selected by CDOT and the STAC.

NOW THEREFORE BE IT RESOLVED, the Department is instructed to prepare and submit applications for the following seven projects under the USDOT TIGER Discretionary Grants program:

- U.S. 36 Corridor: \$300 million
- Eagle County Airport Interchange: \$70 million

- Powers Boulevard/Peterson Air Force Base Interchange:\$50 million
- I-25 / SH 392 Interchange: \$27 million
- US 287 Ports to Plains: \$24.4 million
- I-70B / 29 Road Interchange: \$20 million
- US 6, US 40 & SH 119: \$71.5 million

US 6/Wadsworth Interchange

RTD Randy Jensen introduced Program Engineer Jim Bemelen and the project team members, David Singer, Lizzie Kemp, Lisa Streisfeld, Randy Furst, Jim Paulmeno, Nashat Sawaged and Seyed Kalantar. Chief Hutton said the team used a streamlined environmental process to improve delivery of the Environmental Assessment (EA). Together, FHWA, the consultant team and the project team accomplished the signing of an EA within two years.

Mr. Bemelen then used a powerpoint presentation to discuss the EA for the US 6/ Wadsworth interchange. The System Level Feasibility Study demonstrates that the interchange improvements are warranted and will improve the overall operation of the state highway system. No significant environmental, planning or other issues were identified as part of the study. No added financial commitments are required beyond the financial commitment already made as a part of the 7th Pot Program. Then on a motion by Erickson second by McKnight and a vote of the Commission the following resolution was unanimously adopted.

Resolution Number TC-1751

WHEREAS, in October 2008, the Transportation Commission approved revisions to Policy Directive 1601 concerning the state highway interchange approval process; and

WHEREAS, the Colorado Department of Transportation completed the US6 and Wadsworth Environmental Assessment (EA) and Draft Section 4(f) Evaluation, which includes the Policy Directive requirements for a System Level Feasibility Study (SLS) including the need for system improvements in the US6 and Wadsworth Boulevard Interchange area; and

WHEREAS, the EA for the US6 and Wadsworth Boulevard Interchange (hereinafter referred to as “the Project”) was released for public review

and comment on July 13, 2009 and the public comment period will close on August 26, 2009; and

WHEREAS, the EA has analyzed traffic operations of the proposed improvements and found it consistent with the corridor's need to facilitate continuity and connectivity; and

WHEREAS, the Project is a Type 2 request under the terms of Policy Directive 1601 which has been referred by the Chief Engineer to the Transportation Commission for consideration; and

WHEREAS, by approval of the Chief Engineer on June 25, 2009 and pursuant to Procedural Directive 1601.1, the EA and its supporting technical reports, which include the operational feasibility of the proposed improvements, shall serve as a substitute to the system level feasibility study for purposes of this approval process; and

WHEREAS, the total estimated cost of the Project is approximately \$100 million in 2010 dollars;

WHEREAS, the CDOT, as the sole funding source to date, will continue to actively pursue additional funding sources, which are not limited to state and federal funds; and

WHEREAS, all costs and responsibilities associated with project financing, construction, maintenance and operations shall be determined through Intergovernmental Agreement(s) approved by the Chief Engineer between CDOT, the City of Lakewood, and Regional Transportation District (RTD); and

WHEREAS, approval of the Final Construction, Maintenance and Operations IGA(s) by the Chief Engineer is necessary prior to construction; and

WHEREAS, CDOT must demonstrate significant progress towards implementation of the Project within three (3) years of the date of approval of this resolution.

NOW THEREFORE BE IT RESOLVED,

1. The Transportation Commission approves the request for modifications at the US6 and Wadsworth Boulevard Interchange as meeting the standards set forth in Policy Directive 1601.

2. The Transportation Commission approves the EA, in lieu of the system level feasibility study, for the Project.
3. The Chief Engineer is authorized to enter into IGA(s) with the City of Lakewood and RTD for the financing, construction, maintenance and operations of the facilities associated with the Project.
4. These approvals are contingent on:
 - Completion and approval of the appropriate National Environmental Protection Act (NEPA) decision document consistent with the CDOT Environmental Stewardship Guide; and
 - Approval of applicable access, design and environmental permitting documents by the appropriate agencies; and
 - Approval by the Chief Engineer of IGA(s) for the financing, construction, maintenance and operations of the facilities associated with the construction of the proposed improvements

Chairman Kaufman recessed the meeting at 11:30 a.m. for a short break. Commissioner Barry left the meeting to attend to other business.

Jefferson Parkway

RTD Jensen used a powerpoint presentation to discuss the location and the project needs for the proposed Jefferson Parkway. The Jefferson Parkway Public Highway Authority has committed to a level of service "D." As an RTD, his commitment is to maintain an acceptable level of service on the state highways. He recommended approval of the resolution with the contingencies contained in the resolution. He also requested that the resolution be modified in the 4th, 5th and 6th whereas clauses, to add "but would be further studied in the Project Level Study.

Jefferson County Commission Chairman Kevin McCasky spoke in support of the project, noting the multi-modal facility would be privately funded and would accommodate heavy traffic that travels through neighborhoods that should be handled by a major arterial. Preston Gibson, Jefferson County Economic Council also supported initiating the 1601 Process.

Representative Max Tyler informed the Commission that Steve Rudy, DRCOG stated that waiting a month for the submittal would not affect the process. He stated that the people of Golden are adamantly opposed to the beltway. Commission McKnight responded the 1601 process does not

automatically put the Parkway on the map, but the study does indeed give you additional information and time for comments and study. Former Representative Gwen Green stated that reputable studies do not show any congestion that needs to be relieved on State Highway 93. Mr. Dan Hartman commented against initiating the 1601 Process.

Commissioner Erickson stated her belief that moving the resolution forward would answer the questions that so many have brought out today and over the past several years as well as time to answer the questions properly. She felt continued debate would not serve anyone well. Commissioner Gruen agreed with Commissioner Erickson's comments and stated that this is the beginning of the journey and not the end of the journey. Commissioner Aden wanted the study to move forward and pointed out the Blue Ribbon Panel was very supportive of looking for opportunities for private investment in the transportation infrastructure.

Commissioner Erickson then moved for adoption of the resolution with the proposed revisions with a second by Parker. And on a vote of the Commission the following resolution was unanimously adopted.

Resolution Number TC-1752

WHEREAS, the Transportation Commission approved revisions to Policy Directive 1601 concerning the state highway interchange approval process; and

WHEREAS, the Jefferson Parkway Public Highway Authority has completed the System Level Study for the proposed intersections and interchanges of the Jefferson Parkway with SH128, SH72, and SH93 that has been reviewed by staff of the Department and found to be consistent with the steps contained in Policy Directive Number 1601; and

WHEREAS, the System Level Study documents the need for the intersections/interchanges to facilitate regional continuity and connectivity in the region; and

WHEREAS, the recommended connection with SH 128 is an intersection by 2015 and is an interchange by 2035 but will be further studied in the Project Level Study; and

WHEREAS, the recommended connection with SH 72 is an intersection by 2015 and is an interchange by 2035 but will be further studied in the Project Level Study; and

WHEREAS, the recommended connection with SH93 is an intersection by 2015 and is an interchange by 2035 but will be further studied in the Project Level Study; and

WHEREAS, the proposed improvements will accommodate all projected 2015 and 2035 traffic volumes at and through the interchanges at acceptable levels of service (D) during the morning and evening peak hours; and

WHEREAS, the Jefferson Parkway Public Highway Authority will be requesting the proposed interchange improvements be amended into the DRCOG 2035 Regional Transportation Plan and the Transportation Improvement Program; and

WHEREAS, Environmental documents for the three connections will be completed to address details and environmental issues related to the project; and

WHEREAS, the Transportation Commission recognizes that this approval is not the final approval step, and recognizes that, should the environmental document identify a preferred alternative different from the alternatives identified in the System Level Study, the Transportation Commission will reconsider the System Level Study; and

WHEREAS, the proposed interchanges will be funded through local funds or private investors and the Colorado Department of Transportation is not participating in the funding of the proposed improvements; and

WHEREAS, the responsibility for routine and long-term costs of ramps, traffic signals and bridges associated with the interchanges will be addressed in a subsequent Operations and Maintenance Intergovernmental Agreement between the Department and the Jefferson Parkway Public Highway Authority; and

WHEREAS, the Transportation Commission recognizes that this approval does not ensure incorporation of the proposed interchanges in the constrained regional transportation plan by the corresponding Metropolitan Planning Organization/Transportation Planning Region; and

WHEREAS, the applicant must demonstrate significant progress towards implementation of the project within 3 years of the date of approval this resolution.

NOW THEREFORE BE IT RESOLVED,

1. The Transportation Commission approves the System Level Study for the proposed intersections/ interchanges of the Jefferson Parkway with SH128, SH72, and SH93 as meeting the standards set forth in Policy Directive Number 1601, adopted by the Transportation Commission.

BE IT FURTHER RESOLVED THAT,

2. The approval is contingent on:

- **Inclusion of the proposed improvements in the fiscally constrained regional transportation plan and state transportation improvement program; and**
- **The understanding that a more detailed traffic impact study will be conducted at least at those intersections that appear to have unacceptable levels of service (SH 93/Washington, SH 93/SH 72, SH 72/64th, and SH 72/86th)**
- **Completion and approval of the appropriate National Environmental Protection Act (NEPA) decision document with meaningful public involvement consistent with the CDOT Environmental Stewardship Guide and CDOT NEPA Manual; and**
- **Approval of applicable interchange access, design and environmental permitting documents by the appropriate agencies; and**
- **Approval by the Chief Engineer of an IGA for the financing, construction, maintenance and operations of the facilities associated with the construction of the proposed improvements consistent with the System Level Study, Project Level Study, and future NEPA decision documents.**

Colorado State Infrastructure Bank Rules and Regulations

Administrative Hearing Officer Christine Rees stated the rulemaking hearing was conducted on June 2nd and no public comment was received. She provided a complete procedural record of the hearing and said the recommended changes to the existing rules are based upon the evidence presented at the hearing. Ms. Copp confirmed for Commissioner Aden that the recommended changes do respond to the Legislative Audit. And then on a motion by Aden second by Killin and a vote of the Commission the following resolution was unanimously adopted.

Resolution Number TC-1753

WHEREAS, Section §43-1-113.5 C.R.S. authorizes the Department of Transportation to promulgate rules pertaining to rules and regulations of the Colorado State Infrastructure Bank (hereinafter “the Rules”); and

WHEREAS, the Transportation Commission desires to promulgate and adopt the Rules to include the following:

- 1. Formatting and terminology updates;**
- 2. In Rule IV, the “Application process” is revised in sections 1 and 2 to reflect an evaluation versus a selection practice;**
- 3. In Rule II, the definitions for “Default” and “Review committee” are defined for clarity;**
- 4. The title of Rule IV Section 3 (7) is revised to Financial Ratios from Leverage Ratios and the section rewritten to reflect the requisite for specific project and financial information and to require substantiating documentation;**
- 5. Rule IV Section 4 is rewritten to address inadequacies in the loan evaluation process by establishing a review committee;**
- 6. Rule VI Section 3 paragraphs (1) and (2) refines the remedies in case of default;**
- 7. In Rule II, the definition of “Interest rate” is amended to provide greater flexibility for the program to use an interest rate that reflects the current federal rates;**
- 8. Rule V, Section 1, paragraph 2 describes the procedure for establishing interest rates and sets the interest semi-annually instead of annually in order to stay more in line with the current market conditions;**
- 9. A sub-section is added regarding “Ongoing interest” in Rule IV Section 6 (3) in order to protect CDOT’s interests; and**
- 10 Finally, at the direction of the Transportation Commission, a subsection regarding “Fiduciary provisions” is now included in Rule IV Section 6 (2) in order to protect CDOT’s interests.**

WHEREAS, the Rules must comply with the Administrative Procedures Act requirements (“APA”) under § 24-4-103, et seq. that the Rules be written clearly, not conflict with other laws, and address public health, safety and welfare concerns; and

WHEREAS, on April 16, 2009, the Transportation Commission passed Resolution Number TC- 1711 authorizing an Administrative Hearing Officer to conduct a rulemaking hearing and prepare a complete record of the hearing and recommend new rules based upon evidence presented at the hearing; and

WHEREAS, the rulemaking hearing was conducted on June 2, 2009; no public comments were received; and the Hearing Officer made a complete procedural record of the hearing and the recommended changes to the existing Rules are based upon the evidence presented at the hearing.

NOW THEREFORE BE IT RESOLVED, the Transportation Commission has considered the record and the recommended decision of the Administrative Hearing Officer.

BE IT FURTHER RESOLVED, the Transportation Commission hereby adopts the recommended decision of the Administrative Hearing Officer, making it a final agency decision and adopting all changes to the Rules as prescribed in the record.

Maintenance Incentive Pilot Program

Chief Hutton reviewed the evaluation of the projects selected for the first solicitation of the Maintenance Incentive Pilot Program. Executive Director George suggested the resolution to be revised to note the Commission “may reexamine” funding in the future to avoid an expectation that additional funding would be made available. He also noted reexamining the program by September 2009 is not possible in light of the potential rescissions and reauthorization that impacts availability of state funds.

Commissioner Killin moved for adoption of the resolution with the proposed revision and the deletion of “after a review of CDOT’s budget in September 2009.” Commissioner Ortiz seconded the motion. Commissioner Sobanet did not believe the proper data is available to accurately analyze the costs and benefits. Commissioner Aden agreed and added that the financial picture has changed drastically since action was taken in 2006. Chairman Kaufman then called for the question and on a vote of the Commission the following resolution was unanimously adopted. Commissioners Erickson, McKnight, Krawzoff, Parker, Gruen, Ortiz, Killin and Kaufman voted yes and Commissioners Sobanet and Aden voted no.

Resolution Number TC-1754

WHEREAS, the Transportation Commission authorized the Maintenance Incentive Program (MIPP) as a pilot program in 2006 and approved procedures in 2008 for abandoning highway rights-of-way that are no longer needed for the intent of the state highway system; and

WHEREAS, the Transportation Commission encourages voluntary local ownership of certain state highways that no longer meet the intent of the state highway system; and

WHEREAS, Transportation Commission strives to balance local needs with state transportation standards through CDOT and local agency coordination; and

WHEREAS, the policy of CDOT is to maintain ownership of a continuous state highway system and to ensure that any transfer of ownership under this program does not segment or sacrifice the continuity of the existing system; and

WHEREAS, CDOT will pay to the local government an amount not to exceed what CDOT reasonably expects to pay to maintain, preserve, or improve the road over the next 20 years; and

WHEREAS, CDOT solicited proposals from local governments that request the level of funding needed from CDOT for assuming ownership and maintenance responsibilities for a particular piece of state highway; and

WHEREAS, 15 local governments submitted proposals to the Department and these proposals were evaluated on meeting the program's intent, net present value savings to the Department, length (miles) of the facility, and short-term (6-year) and mid-term (10-year) projected CDOT expenditures versus the requested local agency payout; and

WHEREAS, given limited funding for the program, the Executive Director recommended funding at least two of the most favorable proposals this year;

THEREFORE, BE IT RESOLVED that the Transportation Commission hereby approves and authorizes the following proposals be funded following the first solicitation of the pilot program:

- Delta County for SH 1987, MM0-0.69
- City of Littleton from SH 75 (Bowles Avenue), from Santa Fe Drive to Platte Canyon Road
- City of Brighton for SH 2, from I-76 to SH 7
- Town of Bayfield for SH 160 E
- City of Brighton for SH 7, from SH 85 to I-76
- Prowers County for SH 196, from Junction US 287-SH 385

BE IT FURTHER RESOLVED, that the Transportation Commission hereby approves \$19,795,838 million in available MIPP funds; and

BE IT FURTHER RESOLVED that these above jurisdictions will assume ownership of the above mentioned roads in “as is” condition in exchange for a specific dollar amount to be paid by CDOT to the local governing bodies on the date of the transfer of ownership of this specified road segment; and

BE IT FURTHER RESOLVED that the Chief Engineer on behalf of the Commission is authorized to execute any and all documents necessary to carry out the intent of the Commission as described herein.

BE IT FURTHER RESOLVED, that the Transportation Commission may reexamine funding the following four projects with Transportation Commission contingency funds and the remainder of the MIPP funds in the future:

- Town of Gypsum, Eagle and Eagle County for US 6 – MM 142-149.6
- City of Brighton for SH 22 from SH 2 past to Brighton Road
- City of Littleton for SH 75 (Broadway Avenue), from Rafferty to Littleton (SB) and Littleton to the north edge of Stevenson (NB)
- City of Colorado Springs, El Paso County, and City of Manitou Springs for US 24 Business Route (E. Manitou Avenue/W. Colorado Avenue), from 31st Street to US 24 off-ramp.

Federal Transit Administration DBE Goal

Transportation Development Director Jennifer Finch stated the Transit DBE goal is set on an annual basis in accordance with USDOT goal setting requirements. She pointed out the Transit and Intermodal Committee recommends approval of the proposed 9 percent goal, which is a combination of a 5 percent race neutral goal and 4 percent race conscious goal for the Summit County maintenance facility. Then on a motion by Aden a second by Krawzoff and a vote of the Commission the following resolution was unanimously adopted.

Resolution Number TC-1755

WHEREAS, in February of 1999, the federal government implemented regulations for Disadvantaged Business Enterprises (DBE; 49 CFR Part 26); and

WHEREAS, the federal regulations require recipients of Federal Transportation funds to develop DBE programs with respect to such funds; and

WHEREAS, the Colorado Department of Transportation (CDOT) has a program for its Federal-aid Highway funds that has been approved by the United States Department of Transportation through the Federal Highway Administration; and

WHEREAS, CDOT has been requested by the Federal Transit Administration (FTA) to submit a separate annual DBE goal for the Sections 5304 (planning), 5310 (capital and mobility management), 5311 (administrative, operating, and capital), 5316 (administrative, operating, planning, capital, and mobility management), 5317 (operating, capital, and mobility management) and 5303 (Consolidated Planning Grants provided to the Metropolitan Planning Organizations - MPO) Federal Transit grant funds that it receives through the FTA; and

WHEREAS, the Federal Regulations establish a methodology for states to follow for establishing an annual DBE goal; and

WHEREAS, the Transit and Rail Division of CDOT followed that process to establish an annual DBE goal for the Sections 5304 (planning), 5310 (capital and mobility management), 5311 (administrative, operating, capital, and ARRA funding), 5316 (administrative, operating, planning, capital, and mobility management), 5317 (operating, capital, and mobility management) and 5303 (Consolidated Planning Grants provided to the Metropolitan Planning Organizations - MPO) Federal Transit funds that it administers; and

WHEREAS, those goals reflect the DBE availability, DBE utilization, and possible subcontracting opportunities; and

WHEREAS, the DBE goal setting methodology used by the Transit and Rail Division of CDOT is consistent with the Federal Regulations; and

WHEREAS, the Commission now wishes to establish a goal of 9.0% DBE participation on Transit funds that CDOT receives from the FTA, excluding funds that are used for wages/salaries and transit vehicle capital, for the 2010 Federal fiscal year;

NOW THEREFORE BE IT RESOLVED, that CDOT Transit Unit's DBE plan shall be as follows:

1. The Transit and Rail Division of CDOT shall strive for 9.0% 2010 DBE participation in Sections 5304 (planning), 5310 (capital and mobility management), 5311 (administrative, operating, capital, and ARRA funding), 5316 (administrative, operating, planning, capital, and mobility management), 5317 (operating, capital, and mobility management) and 5303 (Consolidated Planning Grants provided to the Metropolitan Planning Organizations - MPO) FTA-funded contracting opportunities for professional services, personal services, construction, and commodities.
2. The 9.0% 2010 DBE goal for such work will be implemented by the setting of appropriate, narrowly-tailored goals on each Section 5304 (planning), 5310 (capital and mobility management), 5311 (administrative, operating, capital, and ARRA funding), 5316 (administrative, operating, planning, capital, and mobility management), and 5317 (operating, capital, and mobility management) FTA-funded projects and/or contracts, depending on the regional availability of DBEs, according to the goal setting methodology used in computing this annual goal. The MPO Unit in the Division of Transportation Development will administer the FTA Section 5303 Consolidated Planning Grants provided to the MPO's.
3. The Transit and Rail Division of CDOT shall monitor participation of DBEs in accordance with the goal setting methodology used in setting this annual goal for Federal Transit Sections 5304 (planning), 5310 (capital and mobility management), 5311 (administrative, operating, capital, and ARRA funding), 5316 (administrative, operating, planning, capital, and mobility management), 5317 (operating, capital, and mobility management) and 5303 (Consolidated Planning Grants provided to the Metropolitan Planning Organizations - MPO) grants. In addition, the Transit Unit of CDOT shall use that information in setting appropriate annual goals in the future.

Broadband Initiative

Deputy Executive Director Peggy Catlin distributed a proposed resolution for consideration. She stated that over the past several months several companies have requested access to interstate and controlled-access highway right of ways either to install fiber optic telecommunications cable or to access existing CDOT dark fiber in the corridors. Ms. Catlin believed there would be a direct economic benefit to Colorado citizens. Further, as part of the ARRA, \$7.2 billion in grants and/or loans to expand broadband are available. Then on a motion by Aden second by

Krawzoff and a vote of the Commission the following resolution was unanimously adopted.

Resolution Number TC-1756

WHEREAS, the Public-Private Initiatives Program Act, C.R.S. 43-1-1201 et seq., allows the Colorado Department of Transportation (CDOT) to solicit and consider proposals, execute agreements, grant public benefits and accept private contributions for public-private initiatives; and

WHEREAS, the Transportation Commission of Colorado adopted Public-Private Initiative Guidelines (TC-658 August 20, 1998) to provide guidance and procedures consistent with the Act for solicitation, evaluation and selection of public-private proposals; and

WHEREAS, over the past several months several interested companies/parties have approached the Department requesting access to Interstate and controlled-access highways rights-of-way either to install fiber optic telecommunications cable or to access existing CDOT dark fiber in these corridors; and

WHEREAS, the Department believes it will incur a direct benefit by providing access to such Interstate and controlled-access highways rights-of-way by partnering with interested companies/parties that will contribute fiber optic facilities (conduit, fiber optic cable, pull boxes, and other related services), which will be used to expand, operate and manage the Department's Intelligent Transportation System infrastructure and network; and

WHEREAS, the Department believes there will be a direct economic benefit to the citizens of Colorado by companies expanding their high-speed telecommunications to areas that are currently either underserved or un-served; and

WHEREAS, based on the aforementioned information and in accordance with the Public-Private Initiatives Program Act and the Public-Private Initiatives Guidelines the Department seeks to issue a separate Request for Proposal (RFP) to solicit proposals from interested companies/parties that desire either to install fiber optic telecommunications cable or to access existing CDOT dark fiber in exchange for a private contribution and/or exchange for services; and

WHEREAS, the federal government as part of the national stimulus funding program has approved \$7.2 billion dollars in grants and/or loans

to expand broadband, which grants and/or loans funds are available through the National Telecommunications Association (NTIA) and the Rural Utility Services Program (RUS); and

WHEREAS, on July 3, 2009 NTIA and RUS issued a Final Notice of Funds Availability (NOFA) and solicitation of applications that describes the purpose, process, eligibility, criteria and scoring parameters, project benefits, project viability, project budget and sustainability, timeframes and other related information necessary to solicit grants and/or loans; and

WHEREAS, NITA purpose is to emphasize underserved and un-served areas focusing on health care, public safety and education, and RUS purpose is to emphasize remote, un-served and rural areas focusing on distance learning, telemedicine and broadband to support economic development; and

WHEREAS, the Governor has appointed the Office of Information Technology (OIT) as the lead state agency to: 1), identify, in conjunction with NTIA and RUS grant criteria, statewide strategic broadband deployment goals, develop maps and materials, 2), be a "clearing house" to coordinate and approve all prospective state grant applications, and 3), evaluate all grant applications submitted by non-state entities as part of the NTIA and RUS grant process and provide recommendations concerning such applications to NTIA and RUS; and

WHEREAS, the Department has been working closely with OIT to understand the NTIA and RUS grant process, OIT's statewide strategic deployment goals and how that might specifically pertain to state highway rights-of-way that could potentially be utilized for broadband deployment as back haul and/or middle mile implementations; and

WHEREAS, OIT has determined that state agencies will not submit NTIA or RUS broadband applications during the first round solicitation, which is from July 14, 2009 through August 14, 2009, but will most likely submit broadband applications in the second and third rounds, which are anticipated to be December 2009 and May 2010 respectively, based on statewide strategic broadband deployment goals and in conjunction with first round solicitation project awards to non-state entities.

NOW THEREFORE BE IT RESOLVED, the Transportation Commission approves the Department's request to issue a RFP Request for Proposal (RFP) to solicit proposals from interested companies/parties that desire either to install fiber optic telecommunications cable or to access existing

CDOT dark fiber in exchange for a private contribution and the Transportation Commission directs the Department to continue to work with OIT regarding prospective NTIA and RUS broadband grant applications that may submitted by state agencies, with OIT approval, that might specifically pertain to state highway rights-of-way that could potentially be utilized for broadband deployment as back haul and/or middle mile implementations.

AND BE IT FURTHER RESOLVED, any proposals received in response to the Request for Proposal shall be evaluated consistent with the Public-Private Initiatives Program Act and the Public-Private Initiatives Guidelines, as applicable, with further action to be taken by the Transportation Commission, and any NTIA and RUS broadband grant applications that may submitted by state agencies, with OIT approval, that might specifically pertain to state highway rights-of-way that could potentially be utilized for broadband deployment as back haul and/or middle mile implementations shall be presented to the Transportation Commission for appropriate action.

Other Matters

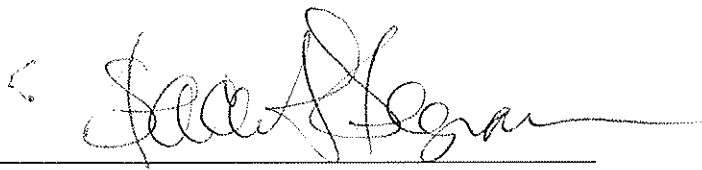
Chairman Kaufman then appointed Commissioners Parker, Aden and Barry to the nominating committee for the election of officers slated in August.

Executive Director George distributed a list of appointments to the Interim Transit Advisory Committee. He stated that although Commissioners will not be formal committee members, but Commissioner participation would be facilitated. Commissioner Parker moved for approval of the list of appointments. Commissioner Gruen seconded the motion and on a vote of the Commission the motion was unanimously adopted.

Executive Director George then distributed the proposed membership for the Accountability and Efficiency Committee. Commissioner Krawzoff suggested Mary Beth Lewis as a rural applicant and an RTD applicant for the Public Transportation Part. Commissioner Krawzoff offered a motion to have two Public Transportation members and two Construction members with Commissioner Sobanet serving on the Committee and the Audit Division staffing the committee. Commissioner Aden seconded the motion and on a vote of the Commission the motion was unanimously adopted.

Adjournment

And there being no further matters to discuss, Chairman Kaufman adjourned the meeting at 11:50 a.m. on July 23, 2009.

A handwritten signature in black ink, appearing to read "Stacey A. Stegman", with a long horizontal flourish extending to the right.

Stacey A. Stegman, Secretary
Transportation Commission of Colorado